

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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UNITED STATES OF AMERICA	:	CRIMINAL NOS. 16-130-1, 2
	:	
	:	
v.	:	Philadelphia, Pennsylvania
	:	November 27, 2017
	:	11:50 o'clock a.m.
CHARLES M. HALLINAN (1)	:	
WHEELER K. NEFF (2)	:	
. . . . .	:	

EXCERPT OF JURY TRIAL  
BEFORE THE HONORABLE EDUARDO C. ROBRENO  
UNITED STATES DISTRICT JUDGE

- - -

APPEARANCES:

For the Government:	MARK B. DUBNOFF, ESQUIRE JAMES A. PETKUN, ESQUIRE U.S. Attorney's Office 615 Chestnut Street Suite 1250 Philadelphia, PA 19106
For the Defendant Charles M. Hallinan:	EDWIN J. JACOBS, JR., ESQUIRE Jacobs and Barbone 1125 Pacific Avenue Atlantic City, NJ 08401
For the Defendant Wheeler K. Neff:	CHRISTOPHER D. WARREN, ESQUIRE 1730 North Fifth Street Suite 604 Philadelphia, PA 19122  DENNIS J. COGAN, ESQUIRE Dennis J. Cogan & Associates 2000 Market Street Suite 2925 Philadelphia, PA 19103

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(Proceedings recorded by For the Record Gold digital sound recording; transcript provided by AAERT-certified transcriber.)

1           (The following excerpt occurred at 11:50 o'clock  
2 a.m.)

3           THE COURT: Okay, please be seated. So, Mr. Jacobs,  
4 two issues. Let's deal with the forfeiture first. What's  
5 your thinking as to how you would like to proceed in terms of  
6 timing?

7           MR. JACOBS: Judge, I think the forfeiture issues  
8 are fairly complex and I think the forfeiture list is over 20  
9 assets. So, I would ask the Court to set aside a couple of  
10 days for hearings on forfeiture. I don't know the Court's  
11 calendar, but I do know that I'll be back in trial in Federal  
12 Court in New York in early January.

13          THE COURT: Well, I don't know what the Government's  
14 is, but I think that we would want to address these issues  
15 more promptly than that. We don't have to do it today, but  
16 can we do them later this week?

17          MR. JACOBS: Later this week would be difficult to  
18 muster our proofs in that short a period of time, Judge.

19          THE COURT: Okay.

20          MR. JACOBS: I would suggest perhaps the following  
21 week.

22          THE COURT: Okay.

23          MR. WARREN: That's fine, Judge.

24          THE COURT: Okay, let me ask the Government.

25          MR. DUBNOFF: Yes, your Honor. We'd be fine to

1 proceed next week.

2 THE COURT: Okay and you said you would need a  
3 couple of days?

4 MR. JACOBS: I think so, your Honor.

5 THE COURT: Now, one of the possibilities may be  
6 that that also would afford the parties an opportunity to  
7 discuss these assets. There may be some agreement on some  
8 and not on others.

9 MR. JACOBS: Yes.

10 THE COURT: And refine what the issues are and  
11 submit papers to you. I think that if we go forward, it's  
12 probably more likely that it will be not next week, but the  
13 week after. That would be the week of December 12th.

14 MR. DUBNOFF: That's fine with us, your Honor.

15 THE COURT: Okay, Mr. Vance will check with you  
16 more specifically. Because I would like to have then some  
17 papers submitted to me and you would do that.

18 Now, it would seem to me that while we wait for  
19 that, is the Government requesting any interim orders on  
20 these assets?

21 MR. DUBNOFF: If I may consult with --

22 THE COURT: Yes.

23 MR. DUBNOFF: -- USA Carillo.

24 THE COURT: Yes, let's have her join you here.

25 MR. DUBNOFF: All right, I'm going to relinquish my

1 seat.

2 THE COURT: Yes, fine. So, Ms. Carillo, what's your  
3 thinking here?

4 MS. CARILLO: Good morning, your Honor. The  
5 Government will be prepared to proceed on forfeiture.

6 THE COURT: Now, are you requesting any interim  
7 orders concerning any of these assets?

8 MS. CARILLO: Presently, your Honor, all but one  
9 asset is restrained and we would ask that that restraining  
10 order continue in place until --

11 THE COURT: Do I have to enter an order or does that  
12 order carry forward?

13 MS. CARILLO: That order carries forward.

14 THE COURT: Okay, so I don't need to do anything.  
15 All we have to do is then schedule a date and how long will  
16 your case take, assuming that all the assets are in play?

17 MS. CARILLO: Your Honor, I believe I can present  
18 the Government's case in approximately three hours.

19 THE COURT: Okay and what would that consist of?

20 MS. CARILLO: It would consist of testimony by  
21 Special Agent Susan Rohrer (ph) and the submission of some  
22 additional exhibits, mostly summary exhibits.

23 THE COURT: Okay, fine. And we'll need findings of  
24 facts and conclusions of law or is this a general -- general  
25 verdict?

1 MS. CARILLO: Your Honor, it is. Your Honor will  
2 want to support your position with findings of fact, yes.

3 THE COURT: Okay, so you will submit some findings  
4 of fact? I don't think you have.

5 MS. CARILLO: I have not and I can certainly do  
6 that.

7 THE COURT: Okay, good. Mr. Jacobs, what's your  
8 thinking here?

9 MR. JACOBS: Well, as to the timing, that's  
10 agreeable.

11 THE COURT: Okay.

12 MR. JACOBS: And if the Government intends to submit  
13 proposed findings of fact, that might expedite the process  
14 you've described of discussing forfeiture agreements.

15 THE COURT: Okay, fine. So, I'll enter a scheduling  
16 order. Maybe you can submit proposed findings of fact by the  
17 end of the week and that will give you an opportunity next  
18 week to discuss these matters as to what the issues are and  
19 then by the end of the week, the defendants can submit their  
20 proposed finding of facts and conclusions of law, so that  
21 we'll be prepared to go the following week.

22 MS. CARILLO: Very well, your Honor.

23 THE COURT: So, if that's all right with everybody  
24 we'll enter an order to that extent. Now, finally, it's  
25 bail. What is the Government's position on bail?

1 MR. DUBNOFF: Your Honor, the Government moves to  
2 revoke bail and remand both defendants into custody.

3 THE COURT: Okay and what is the basis for that?

4 MR. DUBNOFF: A number of things, your Honor. Both  
5 defendants are facing jail sentences under the United States  
6 Sentencing Guidelines that have ranges of upwards of ten  
7 years as floors. My preliminary calculation of Mr. Neff's  
8 sentence, in particular, was a floor of 14 years. I cannot  
9 recall what Mr. Hallinan's floor was under the guidelines,  
10 but I remember it being more than a decade, as well. We  
11 have, with Mr. Hallinan, a defendant who did not comply with  
12 your Honor's previous bail order. Not just by communicating  
13 with Mr. Gray and Mr. Klein by e-mail, there was a telephone  
14 conversation between Mr. Hallinan and Mr. Klein, as well.  
15 Both individuals were identified as potential witnesses.

16 You have in Mr. Hallinan's case, as well, an  
17 individual who, knowing that the Government was trying to  
18 contact Mark Kabash (ph) for potential testimony before the  
19 Grand Jury, he reached out to Mr. Kabash on the day of his  
20 Grand Jury testimony. And we've also seen the entire Lisa  
21 Mathewson episode where he was essentially paying Randall  
22 Ginger or paying the legal fees for Randall Ginger to try to  
23 block the Grand Jury's investigation and prosecution of this  
24 case. So, you have in Mr. Hallinan an individual who has  
25 taken a fair number of steps to try to impede justice and to

1 violate your Honor's order.

2 With regard to Mr. Neff, there are a couple of  
3 things. First of all, Mr. Neff testified on the stand for  
4 four days. Clearly, the jury did not credit his testimony.  
5 In light of the verdict, they must have found him to be not  
6 credible with many aspects of his testimony. In short, he  
7 lied on the witness stand, your Honor. There is no  
8 representation that he could make that would support him  
9 staying out on bail. We do not believe any representation he  
10 would make to the effect that he would comply with your  
11 Honor's orders would be credible. So, for those reasons --

12 THE COURT: Now, what is the evidence that there  
13 would be a risk of flight or that there would be a danger to  
14 others or to themselves?

15 MR. DUBNOFF: Well, we don't have any evidence to  
16 suggest that there is a danger to themselves. I have no  
17 information regarding that. The risk of flight analysis  
18 changes dramatically. Right now, they have substantial  
19 incentive to flee. Both men are now aware that they are  
20 likely looking at a very lengthy jail term if they stay  
21 within the district. I would note, your Honor, that in the  
22 Tucker case, both Mr. Tucker and Mr. Muir had their  
23 conditions change. I believe they are both on home  
24 confinement with electronic monitor and we would be  
25 recommending that, but for Mr. Hallinan's efforts to obstruct



1 justice and his defiance of your Honor's previous orders and  
2 Mr. Neff's perjury on the witness stand.

3 So, there is a different situation here, your Honor.  
4 At the very least, their movements should be restricted given  
5 the sentences that they are facing, the likelihood of flight.  
6 And frankly, your Honor, they have been fleeing justice,  
7 especially Mr. Hallinan's case, in some regard or another for  
8 more than a decade and it is time for them to start.

9 THE COURT: What do you mean by that?

10 MR. DUBNOFF: Well, what I mean is that for a while  
11 there were efforts to hold them accountable civilly. There  
12 is still a lawsuit pending in Florida, which is from 1999,  
13 that's the Betz lawsuit for which we just introduced the  
14 docket sheet. There are -- there have been efforts to hold  
15 them accountable civilly by plaintiffs in California, by  
16 plaintiffs in New Mexico, by the New York Attorney General's  
17 Office, by plaintiffs in Indiana. And he has managed to  
18 evade justice for more than a decade, your Honor and he has,  
19 just by count of the Indiana fraud alone, 1,393 victims. By  
20 the calculations of Mr. Smith of Intercept, which you know  
21 he went over with Mr. Jacobs as to what the math was. You  
22 have \$1.4 million people or \$1.4 loans that were processed.  
23 We don't know the precise numbers of the people who were in  
24 the states where the loans were illegal. But the law of  
25 averages says it has to be hundreds of thousands and those

1 are additional victims for Mr. Hallinan. And it's time for  
2 Mr. Hallinan to start paying --

3 THE COURT: How about Mr. Neff? You put him in a  
4 separate category?

5 MR. DUBNOFF: He is in a separate category and we  
6 would be recommending the same condition for Mr. Neff as had  
7 applied for Mr. Muir, which my understanding is home  
8 confinement with electronic monitoring, but for the absurdity  
9 of his testimony over the four days. And the concern is that  
10 whatever representation that he would make to your Honor,  
11 that he would be able to comply with the bail terms, we would  
12 simply submit that it just wouldn't be credible in light of  
13 the testimony that he gave on the witness stand during this  
14 trial.

15 THE COURT: How about, okay, that would go to risk  
16 of flight?

17 MR. DUBNOFF: It would, your Honor. There is no  
18 assurance that they would comply with the terms.

19 THE COURT: Mm-hmm.

20 MR. DUBNOFF: Oh, the other thing with regard to Mr.  
21 Neff, is that if he is on home confinement, I believe his  
22 home is one of the properties that is subject to forfeiture.

23 THE COURT: I guess his office as well, right?

24 MR. DUBNOFF: I believe so, your Honor. And we have  
25 admissions from Mr. Neff, at the trial, that he used that

1 particular piece of property to found 5th Avenue, Palmetto,  
2 Sable and I believe some other companies that are part of the  
3 RICO enterprise. So, that particular piece of property may  
4 be subject to forfeiture. We're certainly going to seeking  
5 forfeiture and be relying, at least in part, on Mr. Neff's  
6 own admissions on the witness stand. So, I don't believe  
7 that particular property is going to be available for Mr.  
8 Neff for much longer.

9 THE COURT: Mr. Jacobs, please?

10 MR. JACOBS: Thank you, Judge. Firstly, Judge,  
11 sentencing guideline calculations are what they are there,  
12 all advisory now and the ultimate position in this case is up  
13 to you. And you will be passing --

14 THE COURT: There's no mandatories here?

15 MR. JACOBS: That's correct.

16 THE COURT: Okay.

17 MR. JACOBS: And you'll be passing sentencing on a  
18 69 and a 70 year old -- 76 year old person with no prior  
19 records, criminal history one, and so on. The New York case  
20 is a parallel, it is not precedent, it's not binding. Mr.  
21 Muir, the lawyer, did testify in that case, was disbelieved  
22 by the jury. That judge -- that Federal Judge in New York  
23 did change the bail, but the extent of it was electronic  
24 monitoring in their homes.

25 Mr. Hallinan has been under indictment for 18

1 months, under supervision of pre-trial services. They made  
2 no negative report to you about any of the things, I've  
3 understood, that Mark is now arguing. There is no evidence  
4 of a flight or a danger risk. None at all. There's  
5 speculation, but with passport surrenders and home  
6 confinement, electronic monitoring, there really is no risk  
7 at all. Counsel may --

8 THE COURT: What's the amount of the bail in this  
9 case?

10 MR. JACOBS: It is a property bail. I don't have it  
11 here in court with me. It's - we posted property with values  
12 in the millions of dollars.

13 THE COURT: Do you have any idea what it is?

14 MR. DUBNOFF: I don't recall. Oh, it looks like -

15 JUANITA GOMEZ: Your Honor, two days ago in this -

16 THE COURT: Why don't you come here, Ms. Gomez?

17 All right.

18 JUANITA GOMEZ: Your Honor, Charles Hallinan's bail  
19 which was set April 7th, 2016 was \$500,000 secured by  
20 property located at 641 Springdale Road, Villanova, PA. And  
21 Mr. Wheeler Neff, his bail amount was \$250,000 secured by  
22 property. Also posted - I'm sorry, that one was posted April  
23 7th, 2016.

24 THE COURT: So 500,000 and 250,000, right?

25 JUANITA GOMEZ: Yes, sir.

1 THE COURT: And what has been their conduct during  
2 the pretrial portion of this case?

3 JUANITA GOMEZ: Your Honor, Charles Hallinan is being  
4 supervised in the Southern District of Florida. His  
5 compliance there has, according to the officer there, Mr.  
6 Goldberg, no issues at all. And the same with Wheeler Neff  
7 who's been supervised in the District of Delaware by Officer  
8 Carmichael, and he too says there are no issues with  
9 complying with bail conditions.

10 THE COURT: Okay, very good. Thank you, Ms. Gomez.  
11 Now, are there any additional properties that are  
12 not the subject to the forfeiture requests?

13 MR. JACOBS: Any additional properties which might be  
14 available for collateral?

15 THE COURT: Exactly.

16 MR. JACOBS: I'd have to confer with my client,  
17 Judge.

18 THE COURT: Okay.

19 MR. JACOBS: I do not know.

20 THE COURT: Very good. So I get your point.

21 MR. WARREN: Judge, obviously I'll be joining Mr.  
22 Jacobs in March. My client has complied with all conditions  
23 of bail. I would also note that as Mr. Jacobs pointed out,  
24 Mr. Muir who was convicted up in New York was also granted  
25 bail despite the fact that he testified and the jury's

1 verdict indicated that they rejected -

2 THE COURT: Well, we have to look at the  
3 circumstances of this particular case.

4 MR. WARREN: Correct

5 THE COURT: I don't know to what extent that their  
6 risk of flight or danger to others bears upon this case.  
7 What about the Government's argument that perjury was  
8 committed, that obviously the jury did not believe Mr. Neff's  
9 testimony, so any representation that he makes now should not  
10 be believed by the Court.

11 MR. WARREN: Well, Judge, again there's no indication  
12 that he's a risk of flight, okay? He certainly -- I don't  
13 think the Government is contending that perjury somehow makes  
14 you a danger to the community. So the question would be  
15 whether or not the jury's rejection of his testimony  
16 indicates that he's a risk of flight.

17 And the only argument on that score that they've  
18 come up with is the one that Mr. Jacobs just addressed, the  
19 fact that he's looking at a hefty sentence under the  
20 guidelines. But as Mr. Jacobs pointed out, that is a  
21 recommendation. There are no mandatory minimums. House  
22 arrest with electronic monitoring would certainly address --  
23 I don't believe that's even necessary, Judge. He showed up  
24 every -- where's he going to go? He doesn't have a passport.  
25 His entire life is in Delaware. There is nowhere for him to

1 go, so there is no place for him to flee to.

2 THE COURT: Okay.

3 MR. WARREN: With respect to the house, it's owned as  
4 tenancy by the entirety. And I haven't looked at the  
5 forfeiture issues yet, but I will. But it's my understanding  
6 of the law that what could be forfeited would be his interest  
7 in whatever the face is. But that we'll address at the  
8 forfeiture hearing.

9 But again, to the extent the Court has any  
10 questions, you don't need his word to put him on house arrest  
11 with electronic monitoring. That requires no assurance from  
12 Mr. Neff whatsoever.

13 THE COURT: And that would be in Delaware, right?

14 MR. WARREN: Yes, sir.

15 THE COURT: Is he supervised in Delaware or in  
16 Pennsylvania?

17 MR. WARREN: In Delaware, your Honor.

18 I'm sorry, yes?

19 He's being supervised in Delaware. It's my  
20 understanding he's complied with every provision of bail and  
21 supervision that has been imposed upon him. And if you're  
22 worried about him running away, I suggest it's not something  
23 you need to be concerned about. But to the extent it is, you  
24 don't have to take his word. Make him stay at his house and  
25 keep an ankle bracelet on.

1 THE COURT: Okay, very well.

2 Well, it seems to me that the Government has not  
3 carried its burden in this particular case that either one of  
4 either one of the defendants would be a risk of flight or a  
5 danger to others. However, I do recognize that the  
6 circumstances have changed. There has been a jury verdict.  
7 The evidence in the case was considerable, if not  
8 overwhelming. And therefore that should also enter into the  
9 Court's calculus.

10 I think that the appropriate conditions will be as  
11 follows: We will double the amount of bail and release the  
12 defendant, Hallinan, in \$1,000,000 bail, and we will give him  
13 14 days to provide collateral on that amount of bail. That  
14 will coincide with the discussion on the forfeited  
15 properties, so we'll be able to see which ones are subject to  
16 forfeiture and which ones may be available for collateral.

17 Mr. Neff likewise will be released in home  
18 confinement subject to electronic monitoring. But the amount  
19 of bail will be increased from 250,000 to 500,000. All other  
20 conditions will remain the same.

21 Now, Mr. Hallinan is being supervised in the  
22 Southern District of Florida. Mr. Neff is being supervised  
23 in he District of Delaware. What's your view of whether or  
24 not that should continue to be the case? I understand Mr.  
25 Hallinan has a residence here in Pennsylvania?



1 MR. JACOBS: Yes.

2 MR. DUBNOFF: Either one is fine, whether it's the  
3 Villanova residence or the Boca Raton residence.

4 THE COURT: Yes.

5 MR. DUBNOFF: Let me just check with Maria for one  
6 second.

7 (Discussion off the record.)

8 MR. DUBNOFF: Your Honor, in light of the fact that  
9 the Florida place is actually subject to the notice of  
10 forfeiture, our position is that if there's going to be home  
11 confinement of Mr. Hallinan, it should be to the Villanova  
12 property.

13 THE COURT: That's not subject to -

14 MR. DUBNOFF: It is not. It may be sought as a  
15 substitute asset down the road, but for right now it is not  
16 subject to any of the notices of forfeiture.

17 THE COURT: Okay. Well, we will then confine him to  
18 the Villanova residence. I think that could evolve as your  
19 discussions move forward as to whether or not that would be  
20 the permanent place. But it should then be the place where  
21 he will be confined at least for the next 14 days.

22 Now, pretrial, when can we make arrangements for  
23 this matter, landline, et cetera.

24 JUANITA GOMEZ: Your Honor, we don't need a landline.

25 THE COURT: Okay. I'm old fashioned, I guess, huh?

1 JUANITA GOMEZ: We used to.

2 THE COURT: Yeah.

3 JUANITA GOMEZ: We no longer need a landline for the  
4 installation -

5 THE COURT: So you can do this this afternoon?

6 JUANITA GOMEZ: We can do this today, yes.

7 THE COURT: Okay, very well.

8 JUANITA GOMEZ: With respect to the home confinement  
9 are we putting him on detention, home detention?

10 THE COURT: Yes.

11 JUANITA GOMEZ: Okay.

12 THE COURT: He would only be permitted to leave his  
13 residence for purposes of conferring with counsel, medical  
14 reasons or religious obligations upon prior approval of  
15 pretrial services, right?

16 JUANITA GOMEZ: Yes.

17 THE COURT: And we'll enter an order to that effect  
18 today.

19 Anything else today?

20 MR. DUBNOFF: Not from the Government, your Honor.

21 MR. JACOBS: Nothing, Judge.

22 MR. WARREN: Nothing from me, Judge.

23 THE COURT: Now, one final point. The exhibits that  
24 were introduced as evidence in trial, each party shall take  
25 custody of those exhibits as officers of the Court and

1     preserve their integrity in the event that they're needed for  
2     post-trial proceeding or appeals.

3             MR. DUBNOFF: Yes, sir.

4             THE COURT: Okay. Thank you.

5             MR. DUBNOFF: Thank you, your Honor.

6             COURT CLERK: All rise.

7             (Here ends the requested excerpt of jury trial at  
8     12:14 o'clock p.m.)

CERTIFICATION

I hereby certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

s:/Geraldine C. Laws, CET  
Laws Transcription Service

Date 12/12/17